

1 BY MR. HONIG:

2 Q Could you describe any basis for having made
3 that claim?

4 A Yes, sir. I am part Patawatamee Indian and a
5 little bit Cherokee.

6 Q Now, that claim did not appear in the
7 integration and diversification statement that you
8 filed this spring, isn't that correct?

9 A That's correct.

10 Q Nor did it appear in your direct case Exhibit
11 3?

12 A That is correct.

13 Q Why was the claim deleted?

14 A We searched and searched and we talked with
15 counsel and counsel advised that if I didn't have a
16 Tribal card or had direct relatives on any of the
17 Reservations in the Midwest that I would be better off
18 not claiming it and that's exactly what we did, not
19 claim it.

20 MR. HONIG: Excuse me, Your Honor.

21 Your Honor, if I could, my associate, Rhonda
22 Robinson, has just entered the room and I failed to
23 note her joint appearance in behalf of Peaches. I
24 would like to enter that at this time.

25

1 BY MR. HONIG:

2 Q Now, Mr. White, could you turn -- do you have
3 a copy of your direct exhibits?

4 A Yes, I do.

5 MR. HONIG: Could I ask that the witness
6 leave the stand to get a copy of his exhibits?

7 JUDGE LUTON: Yes.

8 THE WITNESS: I have it.

9 BY MR. HONIG:

10 Q Thank you.

11 Now, Mr. White, if you would turn please to
12 page 2 of Exhibit No. 3.

13 A Yes.

14 Q Just one second.

15 I'd like to discuss these activities with
16 you, starting with your representation of volunteer
17 work with charitable organizations. You list muscular
18 dystrophy. What is, in fact, the name of the
19 organization?

20 A Muscular Dystrophy Association.

21 Q And, your work for them consists of airing
22 supportive materials on the radio station, isn't that
23 correct?

24 A That and doing work throughout the community
25 and doing some -- helping to do mailers, getting

1 packages ready to mail, bulk mailing.

2 Q Now, these -- when you speak of doing work
3 throughout the community, your reference is essentially
4 to these bulk mailings, is that not right?

5 A Basically.

6 Q Now, those bulk mailings were prepared at the
7 radio station, isn't that right?

8 A No, sir.

9 Q Where were they prepared?

10 A At the Muscular Dystrophy Association's
11 Headquarters in Jacksonville.

12 Q Now, were you participating on behalf of the
13 radio station?

14 A When we are talking about doing the mailings?

15 Q Yes.

16 A No.

17 Q Now, from 1980 to the present -- are these
18 annual mailings that you've --

19 A These are -- I volunteer two to three hours a
20 week. And right now, with the telephone coming up at
21 the end of the month, it's been pretty hectic the last
22 three or four months. So, it depends on the time of
23 year.

24 But we are talking about thousands of
25 mailings.

1 Q Now, you say two or three hours a week every
2 week since 1980, is that your testimony?

3 A No.

4 Q How many -- would you be more specific about
5 the amount of time that you have invested in a typical
6 year?

7 A I would say probably 20 hours, with the
8 exception of this year, and I think I probably have
9 logged probably close to 100 hours so far this year.

10 Q Now, of that 20 hours a year, except this
11 year that you have spoken off, how much of that time
12 was time that you spent when you were at the station
13 getting announcements aired and so on?

14 A Some of that was spent at the station doing
15 station work, getting things ready, but a large part of
16 it also had to do with helping out at remotes and
17 different functions in and around the area raising
18 money for the telethon.

19 Q Now, remotes, you are speaking for the radio
20 station?

21 A Yes, sir.

22 Q Let's separate the telephone -- does your
23 station carry the telephone?

24 A No, sir.

25 Q But the radio broadcasters in the area and

1 the television broadcasters, as broadcasters, many of
2 them support this telephone, do they not?

3 A Right. They have certain events throughout
4 the year. It may a lock-up, it may be some other event
5 that is special where they would take a Saturday or
6 Sunday afternoon.

7 Q But that is not the case for these mailings.
8 The mailings were what you did on your own as a private
9 citizen, is that your testimony?

10 A Yes, sir.

11 Q Now, what percentage of this 20 hours a year
12 was mailings?

13 A I would say early on I really didn't do any
14 of the mailings or any of the stamps for the envelopes
15 or anything like that. One hundred percent of the 20
16 hours would be things associated with current events
17 happening, whether they would be a live remote or what
18 have you.

19 Q Sure. Now, you say until a period. There
20 came a time, then, when you began also to be involved
21 with these mailings?

22 A Right.

23 Q What was that time, approximately?

24 A Probably started about, I would imagine, oh,
25 six or seven months ago.

1 Q Okay.

2 MR. HONIG: Now, Your Honor, having heard
3 that testimony, I'd like to ask Your Honor to revisit
4 Exhibit 3 and modify page 2 such that credit would be
5 given for -- only for the time May or June, or so, 1990
6 -- 1991 to the present inasmuch as the witness has
7 testified that the work previous to that was
8 essentially station related.

9 JUDGE LUTON: There is nothing for me to
10 modify here. If anything has been modified it has been
11 done already by virtue of the testimony that you have
12 elicited from the witness and the transcript will
13 reflect it and you can make your argument accordingly.

14 MR. HONIG: Okay.

15 Inasmuch as I will be going into other areas,
16 may I simply state that as a continuing request and
17 objection, although I do understand your ruling?

18 JUDGE LUTON: Well, I think that's the way
19 the process works.

20 Every time somebody brings out something on
21 examination that sheds some light on what is in the
22 direct testimony, if the hearing were stopped to reform
23 the written testimony so that it then conformed with
24 the testimony elicited, it would be a mess. It doesn't
25 work that way.

1 MR. HONIG: That's fine, Your Honor. I
2 understand your ruling.

3 BY MR. HONIG:

4 Q Mr. White, turning to Special Olympics --
5 strike that, I'm sorry.

6 Where is the Muscular Dystrophy Association
7 located?

8 A They are located on Bay Center Drive or Bay
9 Meadows Way in Bay Meadows, Jacksonville, Florida.

10 Q And, do you know the geographical area that
11 that particular office serves?

12 A Yes, they serve all of the Northeast Florida
13 area, and there is a direct wing right next to it that
14 serves a much larger area.

15 Q Okay. Now, turning to Special Olympics, what
16 is the full name of that organization?

17 A I've only known it as Special Olympics.

18 Once again, they used to come by the radio
19 station and ask for help. That's where I first got
20 involved with it. Then, later on, they asked me to
21 come by several locations throughout Baker County where
22 they were holding Special Olympics and help out, which
23 I did, and that was on my own time.

24 Q Now, what was the nature of the activities
25 that you undertook? Would you describe what you did?

1 A Well, what I did would be to take, let's say,
2 a person under my arm and basically be with that person
3 to make sure that person didn't get hurt. If it were a
4 running event or maybe a volleyball event or basketball
5 event, be with that person to sort of guide that
6 person.

7 Q And, did the station also contribute public
8 service time and so forth to the activity?

9 A The station, through my urging, from time to
10 time listed winners of events and where the event was
11 taking place and urged everybody to come on out and
12 support it.

13 Q This happened once a year then, is that
14 correct?

15 A Sometimes a couple of times a year.

16 Q And, was it an activity that the Jacksonville
17 area broadcasters, many of them individually,
18 participated in as broadcasters?

19 A I don't believe so, especially not early on.
20 A lot of people are starting to help out now, but early
21 on, very few broadcasters.

22 Q In your work with them, were you -- did they
23 represent you or did you represent yourself as the
24 representative of the radio station?

25 A I don't believe I ever did, except when they

1 saw me inside the station coming in to give me a list
2 of names or events or what have you.

3 Q So that is it accurate to say that some of
4 the work that you did was as a private citizen and some
5 other work that you did was in your capacity as station
6 manager?

7 A Yes, that's accurate.

8 Q Would you estimate a percentage which
9 represented the percentage of the total time you put in
10 which was done as a private citizen not in any way
11 connected with the radio station?

12 A I'd say about 95 percent.

13 Q Now, on the average, in a typical year
14 between 1980 and the present, how many hours per year
15 did this activity consume?

16 A Not very much. I would say -- you want an
17 average per year?

18 Q Certainly.

19 A Possibly 10 to 15 hours per year. These
20 weren't events that went on all the time.

21 Q Sure. Now, next there is a representation
22 concerning Centennial celebration. I'm sorry, strike
23 that.

24 I neglected to ask, Special Olympics is
25 located in Jacksonville, is that right?

1 A Well, they -- I believe they have an office
2 in Jacksonville, but they have several people that take
3 care of the local Local Special Olympics where we have
4 probably about 10 to 12 kids and that's primarily who I
5 worked with.

6 Q And that's in what community?

7 A Baker County.

8 Q Okay.

9 A All of Baker County.

10 Q Now, so when you say Baker County, it's
11 correct to say that did not include Baldwin, is that
12 right?

13 A Well, if I remember right, there are a couple
14 of kids from the Baldwin area. They border -- the
15 communities border each other.

16 Q Okay. Turning to Centennial Celebration,
17 would you describe what that is, please?

18 A That was a gigantic celebration that we put
19 on in Baker County to help commemorate and celebrate
20 the centennial of one of our neighboring towns.

21 Q Now, that was just a one-time event, was it
22 not?

23 A Yes.

24 Q What year was that?

25 A 1981 or '82, maybe '83. Somewhere right in

1 there.

2 Q And, the name of the town was?

3 A Glen Saint Mary.

4 Q Pardon me?

5 A Glen Saint Mary. It's about 15 miles west of
6 Baldwin.

7 Q Is it in the 60 DBU contour of the proposed
8 station?

9 A I would say it's in the 60 DBU, yes.

10 Q Are you sure?

11 A From the Post Office in Baldwin, yes; from my
12 particular tower site, it could be just outside.

13 Q Okay. And, was your participation as a
14 representative of the radio station?

15 A During the day time, yes; during the
16 nighttime activities, it was just as a citizen who
17 happened to be an announcer at a radio station.

18 Q Now, what is Shine Day?

19 A Shine Day was a celebration to try to bring
20 thousands of people, which it did, into the Macclenny-
21 Baker County area. It consisted of parades, a gigantic
22 street dance, arts and crafts, that type of thing.

23 Q This was, in fact, one day you are speaking
24 of, is that right?

25 A Well, it's one day a year and I believe it

1 went on for three years.

2 Q What years were those?

3 A Probably '84, '85, '86 or maybe up one year.

4 Q Up meaning, farther back in time?

5 A '85, '86, '87.

6 Q Now, what was the nature of what you did?

7 A I, I believe, MC'd some street dances. I
8 think we had a donkey softball game which I think I
9 helped sell some tickets to that. I may have delivered
10 some ice to some concession stands. That type of
11 thing.

12 Q And this was on behalf of the radio station?

13 A Some of the work during the day time was;
14 some of the work in the late afternoon was my own time.

15 Q Would it be fair to say it was about half and
16 half?

17 A Probably.

18 Q Now, what is Get Out The Vote? Is that an
19 organization or an event?

20 A No, that was just an event.

21 It was right about the time, I believe, I was
22 on the Democratic Executive Committee. We were real
23 concerned with the lopsided figures we were getting in
24 the area, in the County, and it was an event that a lot
25 of organizations took part in. The radio station, for

1 a small part; the Baker County Chamber of Commerce,
2 Senior Citizens Center, others who would have some type
3 of a vehicle to get the word out that, hey, you need to
4 get out and vote and if you're not registered you need
5 to register.

6 Q Now, this would have been just 1984 to 1986
7 or was it just one year within that period?

8 A Well, it was one -- probably would have been,
9 I would imagine, started six months before either --
10 probably a general election. Somewhere in that time
11 frame.

12 Q And, was your role broadcasting Get Out The
13 Vote announcements on the radio stations?

14 A The station did some of that. During that
15 timeframe I was just an announcer, so I couldn't make
16 any decisions like that. But I believe the station did
17 broadcast some announcements.

18 Q Now, at your deposition, and I'm referring to
19 the deposition that you gave in this proceeding on June
20 25, 1991, Transcript 93, you testified that the
21 majority of your time in that activity was station
22 related. Is that testimony correct?

23 A I don't know if I meant to say the majority
24 or not. As I really, really think about it, of course
25 some of it was work related. But, also, some of it was

1 related to the Baker County Democratic Executive
2 Committee which the station had nothing to do with at
3 all.

4 Q Would you venture a percentage of time which
5 was not work that you did that was connected with or
6 done at the station?

7 A Well, the Baker County Chamber of -- or the
8 Baker County Executive -- well, let's take the first
9 one, the Get Out The Vote. I would say probably --
10 probably 25 percent.

11 Q 25 percent?

12 A Work related.

13 Q Okay. Now --

14 A The station was very important in trying to
15 get the word out. It was the only local voice in the
16 area and obviously -- obviously if I had never even
17 heard of the station or worked at the station and I had
18 something to do with Get Out The Vote, one of the first
19 people I would see would be the key person at a radio
20 station. So, obviously, it was connected.

21 Q By the way, I stand correct, my notes were
22 wrong. Your testimony at your deposition was 60
23 percent station; 40 percent personal would have been
24 more precise.

25 Does that refresh your memory?

1 A If that's what I said, it does refresh my
2 memory.

3 Q Okay. Now, let's turn to Baker County
4 Chamber of Commerce. The station, in fact, was the
5 member of the Chamber of Commerce rather than you as an
6 individual, isn't that correct?

7 A Early on, yes.

8 Q Early on, meaning what years?

9 A I would say from -- well, I think they have
10 had a membership since about 1978. However, I started
11 working there back in 1980. I was just an announcer.
12 As the community got to know me and as the business
13 folks got to know me, probably a year later, they
14 invited me to come by to some of the meetings and spend
15 some time with the Chamber, which I enjoyed and I did.

16 Q Now, who pays the dues for your
17 participation, yourself or the radio station?

18 A I do not. During this timeframe, the station
19 did.

20 Q And, when did you begin paying the dues
21 yourself?

22 A Probably the early part of this year.

23 Q In 19 --

24 A '91.

25 Q '91?

1 A Yes, sir.

2 One day after I discovered that WJXR no
3 longer held a membership with the Chamber, even though
4 I had attended a couple of meetings, they were -- they
5 had been lax in their membership dues by about a year
6 and a half and it shocked me so that I went ahead and I
7 got my own personal membership.

8 Q Now, except for the Shop At Home Committee,
9 your membership consisted of attending meetings, isn't
10 that correct?

11 A Attending meetings, I believe that was about
12 it, yes, sir.

13 Q How many meetings a year did you typically
14 attend?

15 A I would say, early on, probably five or six a
16 year.

17 Q and, these were typically one-hour meetings?

18 A Sometimes two-hour meetings. The Blue Chip
19 Committee trying to get an industrial park in the area
20 met for sometime three and four hours.

21 Q Turning to Baker County Democratic Executive
22 Committee, you were a committee member. What did your
23 activities consist of?

24 A Arranging what we called whistle stops for
25 candidates to get the word out.

1 We probably held 12 to 15 of those throughout
2 the County where we had State Representatives, local
3 officials come and speak to the -- to audiences on the
4 issues and my job was to make sure that the sound
5 system worked all right. I did the announcing, if I
6 remember right, introducing the candidates up on stage,
7 and just generally making sure that everything went all
8 right.

9 Q Now, this would have been an activity that
10 occurred in October, early November of these three
11 years, is that right?

12 A Prior to the election, yes, sir.

13 Q And, would have involved a few hours a year
14 then, is that fair to say?

15 A Well, during this time period, just before
16 the election, we were looking at many, many, many
17 hours. Many days and hours. We have 12 to 15
18 locations that we had to go through. A lot of these we
19 had barbecues and we were looking at crowds of a
20 thousand people, or better, so it took a while to
21 organize it.

22 Q And you were involved in each of these and
23 they took maybe an hour or two each?

24 A Well, once we got there, the event took
25 probably an hour, an hour and a half for all the

1 candidates to speak.

2 Q Okay.

3 A Organize it took much longer than that.

4 Q Now, at your deposition that we've just
5 spoken of, page 94, you testified that about half of
6 your time on that activity was personal, as opposed
7 related to the radio station, is that correct?

8 A I don't remember --

9 Q Oh, I take that back. I'm sorry.

10 A No, I don't remember saying that.

11 Q No, it was all of it. I'm reading my notes
12 wrong. That was all -- none of that was station
13 related, is that right?

14 A Correct.

15 Q Okay. Forgive me. And, the reference should
16 have been to page 96.

17 Now, Jacksonville Chamber of Commerce is the
18 next activity listed. Does Baldwin have its own
19 Chamber of Commerce?

20 A Not at this time.

21 Q And, when did it -- well, why did you join
22 the Jacksonville Chamber of Commerce?

23 A When I found out that -- from the Mayor of
24 Baldwin while attending one of the town council
25 meetings that they would like to have a Chamber there

1 and I thought to myself, well, I'd like to be the one
2 to try to bring one in here.

3 They had mentioned that the Jacksonville
4 Chamber of Commerce fell -- or, Baldwin fell within the
5 jurisdiction of the Jacksonville Chamber of Commerce
6 and I thought to myself, well, I'd better join.

7 Q When in 1990 was this?

8 A Early, January or February.

9 Q And did your activities consist of going to
10 meetings?

11 A Yes.

12 Q And that would have been how many meetings
13 since you joined?

14 A Probably six.

15 Q Lasting maybe an hour or two a piece?

16 A Sometimes there were luncheon meetings,
17 breakfast meetings. I would say probably an hour, an
18 hour and a half.

19 Q And were you a representative of the radio
20 station in any respect at these meetings?

21 A No, sir.

22 Q Now, Committee of 100 is described as an area
23 committee. What area was this referring to?

24 A Same area that the Jacksonville Chambers of
25 Commerce would fall under there. They were a committee

1 -- the objective was to create new jobs, new
2 investments in the area, bring in new business.

3 Q In what month did you join?

4 A The same exact day that I joined the Chamber
5 of Commerce I joined the Committee of 100.

6 Q Is one a subsidiary of the other?

7 A Yes. I think you could say that the
8 Committee of 100 is basically under the umbrella of the
9 Chamber of Commerce. They are very related.

10 Q Okay. Now, were there any activities that
11 you undertook for the Committee of 100 apart from going
12 to meetings?

13 A Just meetings.

14 Q How many meetings was that since you joined?

15 A I would say probably four.

16 Q Now, did the reason for your joining the
17 Chamber of Commerce and the Committee of 100 have
18 anything to do with this case?

19 A Part. Part and part.

20 Q Would you explain, please?

21 A I would say 50 percent was that I joined
22 because I wanted to know more about the Baldwin area,
23 that particular area, maybe have a voice in that area,
24 learn how to possibly maybe start a chamber of commerce
25 in the Baldwin area, and 50 percent because I wanted to

1 know more about the area, be more active in it.
2 They're a pretty progressive group.

3 Q Now, do you recall at your deposition when
4 you were asked whether one of the reasons for joining
5 was to claim qualitative enhancement credit?

6 A I don't remember that question exactly like
7 that, no. But, one reason --

8 JUDGE LUTON: Show it to him, Mr. Honig.

9 BY MR. HONIG:

10 Q Yes, let me show you page 99 of your
11 transcript and I would direct your attention in
12 particular to lines -- well, to be complete and get it
13 in context, 9 through 25.

14 Would you take a moment and read this to
15 yourself and tell me if that refreshes your
16 recollection.

17 A I stand by this testimony.

18 Q The testimony you are referring to is the
19 testimony on page 99 of the deposition and --

20 JUDGE LUTON: You said something different a
21 moment ago as you testified, didn't you? It was 50
22 percent this and 50 percent, but there was no mention
23 made of the reasons given in the deposition and now you
24 are standing by what you said in the deposition, is
25 that what you are saying?

1 THE WITNESS: Well, I believe it all went to
2 the same issue, Your Honor.

3 JUDGE LUTON: I understand the issues. It's
4 the testimony that I am not clear about.

5 MR. HONIG: Maybe it would helpful, Your
6 Honor, so that the record will make sense, if I could
7 read into the record actually lines 16 through 25.

8 Question: All right. So that the primary
9 reason of joining was not to claim qualitative
10 integration credit?

11 Answer: I would say that's -- probably would
12 have been part reason, but it wouldn't have been
13 totally.

14 Question: Okay, if you were assigning
15 percentages, what percentage would you apply to that?

16 Answer: I'd say, being realistic, probably
17 fifty-fifty.

18 Question: All right, and I appreciate your
19 candor. And is that the same for Committee 100?

20 Answer: Yes.

21 BY MR. HONIG:

22 Q Then it is your testimony now that about half
23 of the reason that you joined these organizations was
24 to try to enhance your claim for qualitative credit in
25 this case?

1 A Yes, 50 percent.

2 Q Was that also a motivating factor in
3 undertaking or increasing your level of activity on any
4 of the other activities as to which you have testified
5 this morning?

6 A I don't believe so, no.

7 Which ones are you referring to?

8 Q Could you again take a look at page 2 and
9 examine that list and identify any of them that you may
10 have participated in part because of -- or increased
11 your participation in part because of the fact that we
12 were in this case.

13 A No, sir. I think the Jacksonville Chamber of
14 Commerce and the Committee of 100 probably would have
15 been the only one, and that's only a few days after I
16 found out that Baldwin fell within the jurisdiction and
17 that it would be pretty important to get involved in
18 these committees for the area.

19 Q Excuse me just one second.

20 Mr. White, I'd like to ask for some
21 clarification on a point in your exhibits. You have
22 pledged to resign as station manager -- and I'm
23 referring specifically to page 1 -- in the event that
24 White is granted a construction permit.

25 Now, when do you intend to resign?

1 A Well, regardless of the outcome of this
2 hearing, probably in the next two or three weeks.

3 Q In the next two or three weeks?

4 A Yes, sir.

5 Q And, when was that decision made?

6 A Probably about three weeks ago.

7 Q Does the owner of the station know of your
8 decision?

9 A He will when we get back to town.

10 Q Do you -- well, so that I can understand
11 this, does your decision to resign have some connection
12 with this case?

13 A In a roundabout way, yes.

14 Q Maybe I should ask you to explain in your own
15 words. Just describe the connection and circumstances.

16 A There have been some activities that have
17 gone on that I have just recently found out about
18 that -- that are not fair and right and I would like to
19 leave WJXR just as soon as I can. I think two to three
20 weeks would probably be a good timeframe.

21 Q Now, I'm not concerned with what had no
22 connection whatsoever with this case. It's --

23 A Well, it had a direct effect on me
24 personally, not really to this case.

25 Q Now, you said there was some roundabout

1 connection with the case and that's all I would like
2 you to focus on.

3 A Okay.

4 Q What is the roundabout connection?

5 THE WITNESS: Your Honor, I'd have to object
6 to this, if I could, please.

7 JUDGE LUTON: What is the basis of your
8 objection?

9 THE WITNESS: This leads directly to ex parte
10 communications.

11 MR. HONIG: Your Honor, I don't think there
12 has been a record of an ex parte communication received
13 by Your Honor in this case.

14 JUDGE LUTON: I don't know what this means.
15 You mean, ex parte communication to me?

16 THE WITNESS: No, sir.

17 JUDGE LUTON: To whom?

18 THE WITNESS: To, I believe, other -- some of
19 the other applicants, I believe, and to possibly maybe
20 some business -- businesses in the area.

21 JUDGE LUTON: I don't understand the
22 objection and I don't understand the basis for it
23 either.

24 I'm going to overrule the objection.

25 Mr. White, you have testified that, as I can